

Docket No. 043978-014000

Serial No. 10/080,996

Page 9

REMARKS

The above Amendments and these Remarks are submitted under 35 U.S.C. § 132 and 37 C.F.R. § 1.111 in response to the Office Action mailed October 24, 2007.

Examiner's Action and Applicants' Response

The Examiner withdrew new Claims 24-26 as being directed to a non-elected invention. The Examiner again denied the claim for the benefit of the prior-filed provisional application. The Examiner rejected Claim 23 under 35 U.S.C. § 102(b) as being anticipated by Matthews, III (U.S. Pat. No. 5,600,368, "Matthews"). The Examiner rejected Claims 1-5 and 27 under 35 U.S.C. § 103(a) as being obvious based on Matthews in view of Kahn (U.S. Pat. No. 7,100,184). Claims 6 and 7 were rejected under 35 U.S.C. § 103(a) as being obvious based on Matthews, in view of Kahn and in further view of Butler, et al. (U.S. Pub. No. 2002/0007493, "Butler").

In this Amendment, Applicants have amended Claims 23, 24, and 26. Claim 25 has been cancelled. Applicants request that Claims 24 and 26, as amended, be considered. After entry of this amendment, Claims 1-7, 23, 24, 26, and 27 will be pending.

Response to the Examiner's Denial of the Priority Claimed to the Provisional Application

Applicants again respectfully submit that there is no indication in the Office Action that the denial of priority is of relevance regarding the particular rejections under 35 U.S.C. § 102(b) and 35 U.S.C. § 103(a) included in the Office Action. Therefore, Applicants continue to respectfully reserve the right to challenge the Examiner's denial of the present application's claim of priority to the provisional application.

Response to Rejection of Claim 23 under 35 U.S.C. § 102(b)

The Examiner has rejected new Claim 23 under 35 U.S.C. § 102(b) as being anticipated by Matthews. Regarding the aspect of this claim of making a decision whether to broadcast a version of the program based on the request for the version and a predetermined criteria, the Examiner stated that Matthews teaches a "request for viewing a particular angle -do I have a camera/video corresponding to the requested angle provide to the subscriber) and . . . broadcast[s] said at least one version of said plurality of versions of said program to said at least one of said viewers if said one

10842236.5

Docket No. 043978-014000

Serial No. 10/080,996

Page 10

or more requests meets said predetermined criteria in accordance with their request to view an available particular viewpoint of the broadcast program (Figures 7-8; Col. 7, Lines 33-54)"

Applicants have amended Claim 23 to include the limitation from Claim 25 wherein the predetermined criteria includes the number of requests for each of the version. Claim 25 has been cancelled. Applicants respectfully submit that Matthews does not teach or suggest basing the decision on whether to broadcast a version of the plurality of versions based on the number of requests for that version, as claimed in Claim 23, as amended. Applicants respectfully submit, therefore, that Claim 23 is not anticipated by Matthews.

Claims 24 and 26 have been amended to depend from Claim 23. Accordingly, Applicants respectfully submit that Claims 24 and 26 now depend from elected claims and request that these claims now be considered. Applicants respectfully submit that Claims 24 and 26 are not anticipated by Matthews for the same reasons as above for Claim 23.

Response to Rejection of Claims 1-5, 6-7, and 27 under 35 U.S.C. § 103(a)

The Examiner rejected Claims 1-5 and 27 under 35 U.S.C. § 103(a) as being obvious based on Matthews in view of Kahn. Regarding Claim 1, the Examiner stated that Matthews is silent with respect to further "broadcasting program information" that provides an indication of available programming prior to enabling the subscriber to request viewing of any particular version of the available programming. The Examiner states that Kahn "discloses the particular distribution and presentation of an electronic program guide that assists the user in learning what programming is available on different channels at different times (Col 1, Lines 13-28). This information is displayed at startup (Col 5, Lines 5-7) and includes listings for sporting events such as baseball (Figure 3) (--which as evidenced by Matthews, III may consist of multiple camera viewpoints). Consequently, Kahn provides evidence in regards to 'broadcasting program information from said broadcaster to said viewers' (Col 2, Lines 58-67) 'indicating programs] are available to said viewers, wherein the indication of [programming] is displayed to said viewers before any of said viewers is enabled to request [programming]' (Col. 5, Lines 5-7)." The Examiner concluded that it would have been obvious to combine Matthews and Kahn "at the time the invention was made to initially provide a user interface for a programming event (ex. multiple viewpoint baseball game) for the purpose of providing a means for rapidly accessing program guide information so as to

10842236.5

Docket No. 043978-014000

Serial No. 10/080,996

Page 11

quickly locate programming' of interest (Kahn: Col 1, Lines 61-62)." Applicants respectfully disagree.

Applicants respectfully submit that Kahn teaches a method for rapidly accessing electronic program guide information. (Col. 1, lines 67 - Col. 2, line 2). Kahn teaches "displaying programming guide information on a grid showing a channel axis and time axis with each program positioned at a location in the grid representing a channel of transmission and a corresponding time of transmission" (Col. 2, lines 1-5). (Emphasis added). Applicant respectfully submits that Kahn teaches that the grid typically includes channel panels that identify channels available for viewing. (See Fig. 1 and Col. 1, lines 29-34). Further, it is respectfully submitted that Kahn teaches that the program guide may be displayed at startup and that a viewer selects a field in the program guide by moving the cursor and highlighting the selected field, i.e., for traversing channel and time axis on the guide. (Col. 5, 11-34).

In contrast Applicants respectfully submit that Matthews teaches that "[t]he viewer tunes to a single station, and then manipulates the camera viewpoints as desired using the designated camera control buttons [on the remote control]." (Col. 7, lines 56-59). (Emphasis added).

"If the proposed modification changes the principle of operation of a reference, then the teachings of the references are not sufficient to render the claims prima facie obvious." (M.P.E.P. § 2143.01 VI. citing *In re Ratti*, 270 F.2d 810, 123 USPQ 349 (CCPA 1959)).

Applicants respectfully submit that the principle of operation of Matthews is summed up in Matthews as follows: "[t]he interactive television system of this invention provides intuitive and intelligent operation. The viewer simply tunes to a single station, and then manipulates the camera viewpoints as desired using the designated camera control buttons. The inconvenience of having to remember which channel carries which viewpoint is eliminated. Additionally, the intuitive system permits rapid camera change to keep up with the action. The viewer is relieved of having to punch various numbers on the keypad or up/down buttons to switch camera angles, which is often too slow for the pace of the event." (Col. 7, lines 55-64). (Emphasis added).

Applicants respectfully submit, therefore, that Matthews teaches the principle of operation of permitting "rapid camera change" to keep up with the action and pacing of the event by using dedicated camera viewpoint selection buttons on a remote control. In contrast, as described above, Kahn teaches selecting programs on a dedicated program guide that shows channel panels. Applicants respectfully submits that Matthews teaches away from using such a program guide, as in

10842236.5

Docket No. 043978-014000

Serial No. 10/080,996

Page 12

Kahn, since the teaching in Kahn requires viewers to select fields using a cursor on an electronic program guide in an electronic programming guide mode by moving a cursor on the display or punch numbers on a keypad. (See Col. 3, lines 20 -30).

Applicants respectfully submit that combining Kahn with Matthews, as suggested by the Examiner, would change the principle of operation of Matthews in that the principle in Matthews of rapid camera viewpoint selection via dedicate buttons on a remote control so a viewer can keep up with pace of action on the display, would be violated if the user had to view and scroll a program guide to select fields to make the change, as taught in Kahn. In other words, Applicants respectfully submit that combining Kahn with Matthews as suggested by Examiner, would impermissibly change Matthews' principle of operation of using dedicated buttons on a remote or other device separate from the display screen, which enables the user to continually keep up with pace of the action on the display screen and at the same time, select different camera viewpoints rapidly using those dedicated buttons.

Moreover, Applicants respectfully submit that Matthews teaches away from a method of using selection via a cursor on a display. Applicants respectfully submit Matthews teaches away from selecting on a display, such as in Kahn, since Kahn's teaching requires the viewer to take their eyes away from the action in order to view and scroll selections on a separate program guide. Applicants respectfully submit that the key principle of Matthews is that viewer can keep looking at displayed action and just use fingers to select different camera viewpoints on the remote, i.e. without having to necessarily look at the remote. Applicants respectfully submit that this principle is violated by and taught away from by a program guide display based selection taught in Kahn.

For all of the above reasons, Applicants respectfully submit that Claim 1 is non-obvious based on Matthews in view of Kahn.

Claims 2-5 and 27 depend from Claim 1 and are thus respectfully submitted as being non-obvious based on Matthews in view of Kahn for the same reasons above for Claim 1.

Response to the Rejection of Claims 6 and 7 under 35 U.S.C. § 103(a)

Claims 6 and 7 were rejected under 35 U.S.C. § 103(a) as being obvious based on Matthews, in view of Kahn and Butler. Claims 6 and 7 depend from Claim 3 and thus are respectfully submitted as being non-obvious based on Matthews in view of Kahn for the same reasons as given above for Claim 3. Applicants respectfully submit that Butler, singly or in a theoretical

10842236.3

Docket No. 043978-014000

Serial No. 10/080,996

Page 13

combination with Matthews and Kahn, does not teach or suggest a method of broadcasting as claimed in Claims 3 and 7. For all of the above reasons, Applicants respectfully submit, therefore, that Claims 6 and 7 are non-obvious based on Matthews in view of Kahn and Butler.

Further, Applicants respectfully submit that Butler does not teach or suggest selecting a version including obtaining content information, as claimed in Claims 6 and 7. Applicants respectfully submit that Claims 6 and 7 are non-obvious based on Matthews in view of Kahn and Butler for this additional reason.

10842236.5

Docket No. 043978-014000

Serial No. 10/080,996

Page 14

Conclusion


For the above reasons, Applicants respectfully submit that all pending claims, Claims 1-7, 23, 24, 26, and 27, in the present application are allowable. Such allowance is respectfully solicited

If a telephone conference would expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (415) 984-8200.

Respectfully submitted,

Dec 20, 2007
Date

NIXON PEABODY LLP
Suite 900, 401 9th Street, N.W.
Washington, D.C. 20004-2128
Telephone: (415) 984-8200
Telefax: (202)-585-8080


James W. Drapinski
Registration No: 46,242

111842236.5